REMARKS

Reconsideration and allowance of the above-reference application are respectfully requested. Claims 1, 16, 18, 20, 35-37, 39-41, 43-47 are amended, new claims 50-53 are added, and claims 4, 23, 30-34, 38, and 42 are canceled without prejudice or disclaimer. Claims 1-3, 5-22, 24-29, 35-37, and 39-41, and 43-53 are pending in the application.

Independent claims 1, 20, and 35 as amended specify that the ***application server*** receives "an initiation request from a ***gateway*** configured for receiving incoming calls and ***via a call control channel*** between the application server and the gateway.

Claims 1, 2, 6-12, 15, 16, 18, 20, 21, 25-31, 34-36, 40-47 and 49 were rejected under 35 USC 102 in view of U.S. Patent No. 5,544,234 to Terajima et al. This rejection is respectfully traversed.

Terajima et al. describes a facsimile machine (Fig. 1) that has an automatic answering telephone 16 configured for automatically answering an incoming call in response to detection of the call, where the Network Control Unit (NCU) 107 is configured for **switching** a call connection (using a relay 1 in the NCU 107) *from* the answering telephone 16 *to* the facsimile apparatus in response to detection of the facsimile tones. In particular, the NCU 107 includes a CNG detector 7 configured for detecting a CNG signal indicating a fax call (see, e.g., Figs. 2, 4, 6, 8; col. 1, lines 38-48 and 57-63, col. 5, line 60 to col. 6, line 16; col. 6, lines 17-41; col. 7, lines 61-65 and col. 8, lines 10-15). Alternately, the modem 106 coupled to the NCU 107 can be configured for detecting the CNG signal (Fig. 5, col. 7, lines 23-31). The CNG signal causes the NCU 107 to switch the relay from the answering telephone 16 to the facsimile apparatus (col. 1, lines 38-48 and 57-63, col. 5, line 60 to col. 6, line 16; col. 6, lines 17-41; col. 7, lines 61-65 and col. 8, lines 10-15).

Further, Terajima et al. also describes that the answering telephone 16 in Fig. 10 includes its own tone detecting circuit 206 configured for detecting a fax signal such as a CNG signal (col. 9, lines 1-3). Fig. 11 is a diagram illustrating operation by the answering machine 16 of Fig. 10, where the control program stored in the ROM 222 of the answering machine 16, in response to

detection of the CNG signal by the tone detecting circuit 206 in step S26, opens **its own relay 201b** (to release the seized telephone line N) in step S29, and erases the recorded message in step S30 (col. 9, lines 60-65).

Hence, Terajima et al. *consistently* describes that the call connection is **switched** by the relay 1 in the NCU 107 in response to the fax tone detection by the CNG detector 7 in the NCU 107 (see, e.g., Figs. 2, 4,6, 8) or in the modem 106 coupled to the NCU 107 (e.g., Fig. 5, col. 7, lines 23-31).

Further, Terajima et al. describes that the answering machine 16 **independently detects the fax tones, and deletes the stored message in response to the detected fax tones**.

The Examiner also concedes on page 6 of the Final Action (para. 4) that "Terajima discloses conventional POTS voice calls."

Hence, Terajima et al. neither discloses nor suggests the claimed features of independent claims 11 and 16, namely a ***communications system*** that includes a ***gateway*** and an ***application server***, where the gateway sends to the application server a ***request*** for initiating a messaging session according to a first message type in response to receiving a call; further, Terajima et al. neither discloses nor suggests the gateway sending a ***reject message***, in response to detecting the incoming call corresponds to a second message type incompatible with the first message type, where the application server removes the first data in response to the reject message. Terajima et al. sends no requests or reject messages between any of the components (e.g., NCU 107 or answering machine 16), as claimed; rather, Terajima et al. uses a **relay 1** to switch from the answering machine 16 to the fax machine. Further, Terajima et al. describes that the answering machine 16 *independently* detects the fax tones and in response removes the recorded message.

Further, Terajima et al. neither discloses that the gateway sends first ***and*** second requests for initiation of messaging ***sessions*** according to ***respective first and second message types***, as specified in claim 16: Terajima et al. uses a **relay 1** to switch from the answering machine 16 to the fax machine.

Terajima et al. also neither discloses nor suggests the features of independent claims 1, 20, 35 and 45, of receiving, ***from the gateway,*** a ***request*** for initiating messaging operations of

the first message type and a ***reject message*** that causes the application server to remove the first data from the first data structure, as claimed. As described above, Terajima et al. describes that the answering machine 16 *independently* detects the fax tones and in response removes the recorded message.

Hence, the §102 rejection should be withdrawn because it fails to demonstrate that the applied reference discloses each and every element of the claim. See MPEP 2131. "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). "Anticipation cannot be predicated on teachings in the reference which are vague or based on conjecture." *Studiengesellschaft Kohle mbH v. Dart Industries, Inc.*, 549 F. Supp. 716, 216 USPQ 381 (D. Del. 1982), *aff'd.*, 726 F.2d 724, 220 USPQ 841 (Fed. Cir. 1984).

Regarding the §103 rejection of Terajima et al. in view of U.S. Patent Publication 2003/0095542 A1 by Chang, the Examiner fails to establish a legally adequate basis for obviousness: Chang is cited for "an IP telephony module 59 of gateway device 26 capable of receiving both voice and fax calls over the internet [sic] using IP protocol", however the rejection fails to establish that one skilled in the art would have been motivated to modify Terajima et al to include the teachings of Chang, as Terajima et al. is directed to a user's fax machine and answering machine, whereas the gateway device 26 of Chang is **distinct from** the customer equipment such as the telephone 38, the work stations 24, or the fax machines because the gateway device 26 is used to route calls **from** the customer equipment to the destination customer equipment (see, e.g., Fig. 2 and para. 37, 43, 78, 80, 227).

"The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification." *In re Fritch*, 23 USPQ2d 1780, 1783-84 (Fed. Cir. 1992). *In re Mills*, 16 USPQ2d 1430 (Fed. Cir. 1990). The naked reference to Voice over IP is insufficient to establish obviousness of the claimed application server receiving the claimed request and reject message ***from the gateway***.

For these and other reasons, the §103 rejection is legally deficient and must be

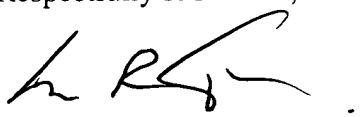
withdrawn.

It is believed the remaining dependent claims are allowable in view of the foregoing.

In view of the above, it is believed this application is in condition for allowance, and such a Notice is respectfully solicited.

To the extent necessary, Applicant petitions for an extension of time under 37 C.F.R. 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including any missing or insufficient fees under 37 C.F.R. 1.17(a), to Deposit Account No. 50-1130, under Order No. 95-462, and please credit any excess fees to such deposit account.

Respectfully submitted,



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